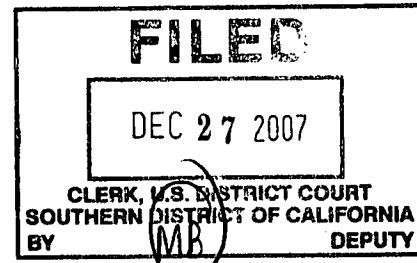


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UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	Magistrate Case No. 07MJ2867
	)	
Plaintiff,	)	<b>STIPULATION OF FACT AND JOINT</b>
v.	)	<b>MOTION FOR RELEASE OF</b>
SAMUEL GONZALEZ,	)	<b>MATERIAL WITNESS(ES) AND</b>
	)	<b>ORDER THEREON</b>
Defendant.	)	(Pre-Indictment Fast-Track Program)

IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Douglas Keehn, Assistant United States Attorney, and defendant SAMUEL GONZALEZ, by and through and with the advice and consent of defense counsel, Brian J. White, that:

1. Defendant agrees to execute this stipulation on or before the first preliminary hearing date and to participate in a full and complete inquiry by the Court into whether defendant knowingly, intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead guilty to the pre-indictment information charging defendant with a non-mandatory minimum count of Transportation of Aliens and Aiding and Abetting, in violation of 8 U.S.C. §1324(a)(1)(A)(ii) and (v)(II).

//

WDK:psd:12/14/07

1       2. Defendant acknowledges receipt of a plea agreement in this case and agrees to  
2 provide the signed, original plea agreement to the Government not later than five business days  
3 before the disposition date set by the Court.

4       3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or  
5 before **January 14, 2008**.

6       4. The material witnesses, Carlos Martinez-Juarez, Julian Felix-Hernandez, Edith  
7 Hernandez-Estrada, aka Edith Estrada-Xingu, I.H.E., a male juvenile, and V.H.E., a female juvenile,  
8 in this case:

9           a. Are aliens with no lawful right to enter or remain in the United States;  
10          b. Entered or attempted to enter the United States illegally on or about  
11 December 9, 2007;

12          c. Were found in a vehicle driven by defendant in Jamul, California and that  
13 defendant knew or acted in reckless disregard of the fact that they were aliens with no lawful right  
14 to enter or remain in the United States;

15          d. Were paying \$2,700 and \$30,000 Mexican pesos to others to be brought into  
16 the United States illegally and/or transported illegally to their destination therein; and,

17          e. May be released and remanded immediately to the Department of Homeland  
18 Security for return to their country of origin.

19       5. After the material witnesses are ordered released by the Court pursuant to this  
20 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any  
21 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,  
22 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

23           a. The stipulated facts set forth in paragraph 4 above shall be admitted as  
24 substantive evidence;

25       //

26       //

27       //

28 Stipulation of Fact and Joint Motion for Release of  
Material Witness(es) And Order Thereon in  
United States v. Samuel Gonzalez

1           b. The United States may elicit hearsay testimony from arresting agents  
2 regarding any statements made by the material witness(es) provided in discovery, and such testimony  
3 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest  
4 of (an) unavailable witness(es); and,

5 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),  
6 “testimonial” hearsay statements are not admissible against a defendant unless defendant confronted  
7 and cross-examined the witness(es) who made the “testimonial” hearsay statements, defendant  
8 waives the right to confront and cross-examine the material witness(es) in this case.

9       6. By signing this stipulation and joint motion, defendant certifies that defendant has  
10 read it (or that it has been read to defendant in defendant's native language). Defendant certifies  
11 further that defendant has discussed the terms of this stipulation and joint motion with defense  
12 counsel and fully understands its meaning and effect.

Based on the foregoing, the parties jointly move the stipulation into evidence and for the immediate release and remand of the above-named material witness(es) to the Department of Homeland Security for return to their country of origin.

16 It is STIPULATED AND AGREED this date.

Respectfully submitted,

KAREN P. HEWITT  
United States Attorney

20 Dated: 12/27/07

*for* DOUGLAS KEEHN  
Assistant United States Attorney

22 Dated: 12/18/07

~~BRIAN J. WHITE~~  
Defense Counsel for SAMUEL GONZALEZ

25 Dated: 12/18/07

Samuel Gonzalez  
SAMUEL GONZALEZ  
Defendant

28 Stipulation of Fact and Joint Motion for Release of  
Material Witness(es) And Order Thereon in  
United States v. Samuel Gonzalez

## ORDER

2           Upon joint application and motion of the parties, and for good cause shown,  
3           **THE STIPULATION** is admitted into evidence, and,  
4           **IT IS ORDERED** that the above-named material witness(es) be released and remanded  
5 forthwith to the Department of Homeland Security for return to their country of origin.  
6  
**SO ORDERED.**

SO ORDERED.

Dated: 12/27/07

  
Barbara Z. Mayer  
United States Magistrate Judge